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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,226	07/01/2003	Alan F. Jankowski	IL-11019	7754
78980	7590	10/30/2009		
LLNL/Zilka-Kotab			EXAMINER	
John H. Lee, Assistant Laboratory Counsel			LHE, CYNTHIA K	
Lawrence Livermore National Laboratory				
L-703, P.O. Box 808			ART UNIT	PAPER NUMBER
Livermore, CA 94551			1795	
			MAIL DATE	DELIVERY MODE
			10/30/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ALAN F. JANKOWSKI, JEFFREY D. MORSE,  
RAVINDRA S. UPADHYE, and  
MARK A. HAVSTAD

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Application No. 10/612,226  
Technology Center 1795

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Mailed: October 30, 2009

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Before DELORES LOWE, *Review Team Paralegal*  
LOWE, *Review Team Paralegal.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on October 20, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on July 13, 2009, in response to the Examiner's Answer mailed May 13, 2009.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed October 14, 2009, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) vacate the Communication mailed October 14, 2009;
- 2) generate and mail either:
  - a) a revised Communication properly acknowledging to the Reply Brief dated July 13, 2009 in accordance with MPEP§ 1208, part II.;

OR

- b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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